

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
STATE OF INDIANA)	WT Docket No. 02-55
)	
And)	TAM-12005
)	
SPRINT CORPORATION)	

To: Marlene H. Dortch, Secretary
Attn: Chief Administrative Law Judge Richard L. Sippel

**ENFORCEMENT BUREAU'S RESPONSE TO JOINT REQUEST TO EXTEND
NOTICE OF APPEARANCES AND PREHEARING CONFERENCE DATES**

1. On October 17, 2017, the Commission's Public Safety and Homeland Security Bureau designated for hearing a number of issues relating to the costs to be reconciled as part of the closing of the Frequency Reconfiguration Agreement between the State of Indiana (Indiana) and Sprint Corporation (Sprint).¹ The HDO requires that Indiana and Sprint each file a written appearance within 20 calendar days of the release of the HDO.² On October 19, 2017, the Presiding Judge released *Order*, FCC 17M-36, scheduling a Prehearing Conference for November 6, 2017.³

2. On October 24, 2017, Indiana and Sprint jointly requested an extension of the time to file Notices of Appearance until November 27, 2017 and requested that the Prehearing

¹ See Hearing Designation Order, rel. October 17, 2017 (HDO). The Enforcement Bureau (Bureau) was added as a party to the proceeding on November 15, 2017. See *Erratum*, rel. Nov. 15, 2017.

² See HDO at 8, para. 26.

³ See Order, FCC 17M-36 (ALJ, rel. Oct. 19, 2017).

Conference likewise be delayed until that date.⁴ The Presiding Judge granted the parties' request to file their Notices of Appearance on November 27, 2017 and delayed the Prehearing Conference until December 4, 2017.⁵

3. On November 16, 2017, Indiana and Sprint requested an additional extension of time to file their Notice of Appearances and/or prepare for and participate in a Prehearing Conference.⁶ In this Second Request, Indiana and Sprint offer no alternative date(s) for filing their Notices of Appearance or for appearing at a Prehearing Conference. The Bureau does not oppose Indiana and Sprint's request to delay the Prehearing Conference. The Bureau understands that the parties are diligently working to reach a settlement and are hoping to avoid the need for a Prehearing Conference. On that basis, the Bureau also does not oppose a limited further extension of time to file the Notices of Appearance. However, to the extent Indiana and Sprint seek to delay *indefinitely* the filing of their Notices of Appearance, or to avoid filing such Notices of Appearance altogether, the Chief, Enforcement Bureau, by her attorneys herein respectfully opposes this Second Request.

4. Pursuant to the Commission's rules (Rules), in order to avail itself of the opportunity to be heard in a hearing proceeding, any entity named as a party in a hearing designation order shall within 20 days of the mailing of the notice of its designation as a party, file with the Commission a written appearance stating that it will appear at the hearing.⁷ An entity's failure to file such written appearance within the time specified shall, unless good cause

⁴ See Joint Request for Extension of Time, filed Oct. 24, 2017.

⁵ See Order, FCC 17M-37 (ALJ, rel. Oct. 31, 2017).

⁶ See Joint Request to Extend Notice of Appearances and Prehearing Conference Dates, filed Nov. 16, 2017 (Second Request). Indiana and Sprint did not consult with counsel for the Bureau before filing this Second Request.

⁷ See 47 C.F.R. § 1.221(e).

is shown, forfeit its hearing rights.⁸ It follows, therefore, that a party cannot proceed to exercise its rights in a hearing proceeding until such time as a Notice of Appearance is filed.

5. Here, it appears that the only basis upon which Indiana and Sprint seek a delay in filing their Notices of Appearance is the fact that the parties have reached an agreement to settle the matters set forth in the HDO and that they intend at some future date to seek a dismissal of the pending proceeding with prejudice.⁹ While it appears from the Rules that the parties might be able to file a settlement agreement with the Commission prior to filing their Notices of Appearance, there is nothing in the Rules suggesting that the parties can seek a dismissal without first filing such Notices.¹⁰ Thus, unless and until the parties file their Notices of Appearance, they would appear to be procedurally barred from filing for a dismissal. We note that the parties may still avoid the hearing fees that are otherwise required by the Rules by filing a settlement agreement prior to, or simultaneously with, their Notices of Appearance.¹¹

6. Accordingly, the Bureau respectfully requests that Presiding Judge deny the parties' request to delay indefinitely the filing of their Notices of Appearance and set a date certain in early January 2018 by which the parties should file their Notices of Appearance, whether filed prior to, or simultaneously with, any settlement agreement reached between the parties.

⁸ *See id.*

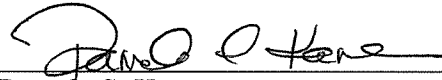
⁹ *See* Second Request at 2-3.

¹⁰ *See* Note at 47 C.F.R. § 1.221(f).

¹¹ *See id.*

Respectfully submitted,

Rosemary Harold
Chief, Enforcement Bureau

A handwritten signature in black ink, appearing to read "Pamela S. Kane", written over a horizontal line.

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November 20, 2017

CERTIFICATE OF SERVICE

Pamela S. Kane certifies that she has on this 20th day of November, 2017, sent copies of the foregoing “ENFORCEMENT BUREAU’S RESPONSE TO JOINT REQUEST TO EXTEND NOTICE OF APPEARANCES AND PREHEARING CONFERENCE DATES” via email to:

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